

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 3 - SB 228

February 5, 2021

**SUMMARY OF ORIGINAL BILL:** Requires that a student's gender for the purposes of participation in public middle or high school interscholastic athletics must be determined by the student's sex at the time of birth as indicated on the student's birth certificate. Requires the student to provide other evidence indicating the student's sex at the time of birth if the birth certificate provided by the student does not appear to be the original or does not indicate the student's sex at the time of birth.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (002875):** Deletes and replaces language in the introductory clauses of the original bill without making any substantive changes to the legislation.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- The proposed legislation requires a student's gender be determined by the student's biological sex as indicated on the student's original birth certificate for the purposes of participating in an interscholastic athletic activity.
- Title IX of the Education Amendments of 1972 prohibits a person, on the basis of sex, from being excluded from participation in, to be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.
- Pursuant to 34 C.F.R. Part 106 a school may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport.

- Requiring athletes to participate with and compete against other athletes based on the biological sex may exclude certain genders from participation in specific sports.
- A school may use a student's original birth certificate for the basis of determining a student's gender for the purposes participating in an athletic activity and remain in compliance with federal law; in which case there would be no significant impact to state or local government.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Interim Executive Director

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